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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/414,400	10/07/1999	JOHN W. SHERRY	884.166US1	3252
21186	7590	03/09/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			FLETCHER, JAMES A	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/414,400

**Applicant(s)**

SHERRY, JOHN W.

**Examiner**

James A. Fletcher

**Art Unit**

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8-10,12,15,21-22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-10,12,15,21,22 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***New Art Unit***

1. Please include the new Art Unit 2616 in the caption or heading of any written or facsimile communication submitted after this Office Action because the examiner, who was assigned to Art Unit 2615, will be assigned to new Art Unit 2616. Your cooperation in this matter will assist in the timely processing of the submission and is appreciated by the Office.

### ***Response to Arguments***

2. Applicant's arguments filed 19 November 2004 have been fully considered but they are not persuasive.

**In re page 8**, in light of the amendment to claim 8, the examiner withdraws the rejection of claims 8-10 under 35 U.S.C. §112, first paragraph.

**In re page 9**, applicant's representative states: "It should be noted that computer memory 22 (FIG. 1, described in col. 3, lines 37-38 of Shipp) constitutes a separate element from the video camera 11 within Shipp's complex system. This is to be contrasted with Applicant's memory 110, which forms part of digital camera 100 (FIG. 1). Applicant's camera is intended to be a portable, handheld digital camera, in contrast to Shipp's complex system, which is intended to be used by surgeons in a hospital (col. 3, lines 12-28)."

The examiner respectfully disagrees. The invention of Shipp can clearly only function as a system, and as such all of its elements are required to co-exist in the described system. Therefore, to state that the memory used in Shipp is a separate

element is incorrect. Further, the concept of speech-to-text conversion is clearly well-known, and with processors such as that used both in Shipp and the Applicant's invention rapidly becoming faster and requiring less power, the addition of additional software functions to products incorporating such microprocessors are obvious to those of skill in the related arts.

In re page 10, the examiner acknowledges the Applicant's Representative's correction of the drawing number cited in the previous office action, thanks her for that correction, and regrets his error.

Further in re page 10, applicant's representative states: "the combination of Kondo and Shipp fails to disclose storing text data and digital image data as a composite digital file in a memory of the camera [emphasis added]. Fukuoka also fails to disclose this, because Fukuoka fails to disclose converting audio input into text data."

The examiner again respectfully disagrees. The memory of Shipp is vital to the operation of Shipp's invention, as are the other elements disclosed in the invention, including the speech-to-text conversion algorithms, and as such is an element of the camera system. Further, the examiner notes that miniaturization and integration of formerly large and complex elements in a system into a small, portable system are obvious to those of skill in the related arts.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al (5,786,851), and in further view of Shipp (6,031,526).

**Regarding claim 12**, Kondo et al disclose a method of operating a portable digital camera comprising;

- activating a shutter of the camera to capture a light image (Col 4, lines 25-26 "a shutter having both of an iris function and a shutter function");
- converting the light image to digital image data (Col 4, lines 28-30 "an image pickup element such as a CCD or the like for converting reflected light from an object to be photographed to an electric signal");
- activating an audio input (Col 11, lines 45-47 "the mechanical and operation unit controlling CPU 4 detects an audio recording command by the operation display unit 14 of the user");
- capturing audio input (Col 11, lines 45-47 "the mechanical and operation unit controlling CPU 4 detects an audio recording command by the operation display unit 14 of the user");
- Kondo et al do not disclose converting the audio input into text data.

Shipp teaches the conversion of an audio input into text data (Col 3, lines 29-32 "The output of voice recognition module 20 preferably constitutes electronic text containing digitized character and formatting codes recognized by standard word processing software").

As taught by Shipp, conversion of audio data to text data in a camera system is a well-known, widely used, and commercially available method of storing annotations to illustrations in a compact, editable fashion.

Therefore, it would have been obvious to one of ordinary skill in the art to modify Kondo et al to include conversion of the spoken annotations to text data.

- Kondo et al do not disclose storing the text data and the digital image data as a composite digital file in a memory of the camera.

Shipp teaches the storing the digital image file and the digital text file as a single composite digital data file in the memory (Col 2, lines 34-36 "The captured video frame is integrated with the dictated text and then constitutes an electronic medical record")

As taught by Shipp, storing a voice file converted to a text file integrated into a single digital file provides a well-known, commercially available and widely used method of storing data that prevents separation of the verbiage and the visual image.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kondo et al to store a converted text data with the image data as a single file.

5. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination as applied to claim 12 above, and further in view of Fukuoka (6,104,430).

**Regarding claim 21**, Kondo et al do not disclose storing a text data file.

Shipp teaches the storing the digital image file and the digital text file as a single composite digital data file in the memory (Col 2, lines 34-36 "The captured video frame is integrated with the dictated text and then constitutes an electronic medical record")

As taught by Shipp, storing a voice file converted to a text file integrated into a single digital file provides a well-known, commercially available and widely used method of storing data that prevents separation of the verbiage and the visual image.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kondo et al to store a converted text data with the image data as a single file.

6. Claims 8-10, 15, 22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al., further in view of Shipp, and in further view of Fukuoka.

**Regarding claim 8,** Kondo et al disclose a portable digital camera comprising:

- a lens having a shutter (Col 4, lines 25-26 "a shutter having both of an iris function and a shutter function");
- a photo-sensitive array to capture an image (Col 4, lines 28-30 "an image pickup element such as a CCD or the like for converting reflected light from an object to be photographed to an electric signal");
- a microphone to capture audio input (Col 4, lines 58-60 "an audio input circuit such as a microphone or the like for inputting an audio signal from the outside");
- a memory (Col 5, lines 1-2 "the recording medium such as a semiconductor memory card, hard disk, or the like"); and

- a processor coupled to the photo-sensitive array, microphone, and memory (Col 4, lines 51-52 “the memory/bus controller 102 transfers image and audio data”),
- wherein the processor is to convert captured audio input provided by the microphone into either a digital text file or a compressed audio file (Col 5, lines 7-9 “the expansion card having a signal processing section and has a function for compressing and expanding image and audio signals”), and
- wherein the processor is further to convert the captured image into a digital image file (Col 4, line 40 “the A/D converter” and Col 4, lines 40-42 “the signal processing controlling CPU for controlling each unit of the signal processing system”), and
- Kondo et al do not disclose storing a text file.

Shipp teaches the storing the digital image file and the digital text file as a single composite digital data file in the memory (Col 2, lines 34-36 “The captured video frame is integrated with the dictated text and then constitutes an electronic medical record”)

As taught by Shipp, storing a voice file converted to a text file integrated into a single digital file provides a well-known, commercially available and widely used method of storing data that prevents separation of the verbiage and the visual image.



Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kondo et al to store a converted text data with the image data as a single file.

Shipp also teaches to optionally store the digital text file as a separate file in the memory (Col 3, lines 33-39 "word processing module 21...receives the output from voice recognition module 20 and converts it into an editable and readable electronic document...for storage in volatile or non-volatile computer memory 22").

As taught by Shipp, storing text documents as separate files is a well-known, commercially available, and widely used method of storing text documents with a minimum of expense and bother.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kondo et al to store the text data and the image data as separate files.

**Regarding claim 9**, Kondo et al disclose a portable digital camera further comprising an input control to activate the processor to capture audio input provided via the microphone (Col 11, lines 45-47 "the mechanical and operation unit controlling CPU 4 detects an audio recording command by the operation display unit 14 of the user").

**Regarding claim 10**, Kondo et al do not disclose a portable digital camera wherein the input control is to respond to an audio command provided via the microphone to the processor.

Shipp teaches the use of voice commands to control an audio recording camera (Col 3, lines 47-50 "Voice recognition module 20 also includes software implemented algorithms which have been taught to recognize certain words of word combinations as voice commands, including system operation").

As taught by Shipp, voice command of a digital camera system is a well-known, widely used, and commercially available method of controlling a camera system, providing a highly ergonomic and simple to use control of the camera system.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kondo et al to include voice command of the system through the microphone.

**Regarding claim 15**, Kondo et al disclose a method of operating a portable digital camera comprising;

- activating a shutter of the camera (Col 4, lines 25-26 "a shutter having both of an iris function and a shutter function") to capture a light image using a photosensitive array (Col 4, lines 28-29 "an image pickup element such as a CCD or the like");
- converting the light image to digital image data (Col 4, lines 28-30 "an image pickup element such as a CCD or the like for converting reflected light from an object to be photographed to an electric signal");
- activating an audio input (Col 11, lines 45-47 "the mechanical and operation unit controlling CPU 4 detects an audio recording command by the operation display unit 14 of the user");

- capturing audio input (Col 11, lines 45-47 "the mechanical and operation unit controlling CPU 4 detects an audio recording command by the operation display unit 14 of the user");
- converting the audio input into either text data or a compressed audio file (Col 5, lines 7-9 "the expansion card having a signal processing section and has a function for compressing and expanding image and audio signals");
- Kondo et al do not disclose storing a text file.

Shipp teach the storing the digital image file and the digital text file as a single composite digital data file in the memory (Col 2, lines 34-36 "The captured video frame is integrated with the dictated text and then constitutes an electronic medical record")

As taught by Shipp, storing a voice file converted to a text file integrated into a single digital file provides a well-known, commercially available and widely used method of storing data that prevents separation of the verbiage and the visual image.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kondo et al to store a converted text data with the image data as a single file.

- Kondo et al suggest recording digitized audio input separately from the image data (Col 13, lines 52-53 "the additional audio signal can be recorded in the other areas"), but do not specifically disclose the use of separate files in the memory.

Fukuoka teaches the recording of compressed audio and images as separate files in the memory (Fig 9 shows separate image files and audio files).

As suggested by Kondo and taught by Fukuoka, the storing of image and audio data as separate files allows for simple file management, and is a well-known, widely used, and commercially available technique for storing diverse forms of related data.

Therefore, it would have been obvious to modify Kondo et al to store the digital audio data and the digital image data as separate files.

**Regarding claims 22 and 24,** Kondo et al suggest recording digitized audio input separately from the image data (Col 13, lines 52-53 "the additional audio signal can be recorded in the other areas"), but do not specifically disclose the use of separate files in the memory.

Fukuoka teaches the recording of compressed audio and images as separate files in the memory (Fig 9 shows separate image files and audio files).

As suggested by Kondo and taught by Fukuoka, the storing of image and audio data as separate files allows for simple file management, and is a well-known, widely used, and commercially available technique for storing diverse forms of related data.

Therefore, it would have been obvious to modify Kondo et al to store the digital audio data and the digital image data as separate files.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Fletcher whose telephone number is (703)

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305-3464. The examiner can normally be reached on 7:45AM - 5:45PM M-Th, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached at (703) 305-4380.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, DC 20231

**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only).**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

JAF  
March 1, 2005

  
ROBERT CREVELIER  
PRIMARY EXAMINER